Starting over: Financial planning tips for blended families

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“Marriage is the triumph of imagination over intelligence.
Second marriage is the triumph of hope over experience.”
— Oscar Wilde

It’s often said that when you marry your spouse, you also marry your spouse’s family. This usually refers to the emotional relationships that you may have with your new “in-laws.” But, in the case of a second marriage or common-law partnership, not only might you have to deal with blending family members from previous relationships, such as kids, but many couples have to consider how to blend finances, especially when one (or both) spouses or partners bring significant assets to the new relationship. These factors, if not properly discussed in advance, can add significant complexity to the new relationship.

The CIBC report For richer or poorer: Financial planning tips for newlyweds showed that having a strategy for managing joint finances can increase your chances of marital or partnership harmony. Yet results of a CIBC poll[1] revealed that among Canadians aged 55 and over, who are most likely to have financial complexity upon entering a marriage or common-law partnership, only one-third had spoken to a financial advisor or had plans to do so after marrying or moving in together.[2]

In this report, we'll discuss why it's critical for couples to get professional assistance with their finances when entering a blended family relationship, such as with children from previous relationships, or if partners have accumulated significant assets before uniting.

Blending finances

The CIBC poll surveyed Canadians planning to get married or live common-law within 24 months. The poll results show that many Canadians had been in previous relationships and some had responsibility for additional family members. Almost one-fifth (18%) of all poll respondents were previously married and divorced, with the rate jumping to almost half (46%) of poll respondents aged 55 and over. And 25% of individuals aged 35 – 54 (16% of all respondents) had underage children from previous relationships.

Perhaps not surprisingly, the CIBC poll results indicated that the older you are, the more likely you are to choose a common-law partnership over marriage,[3] possibly because of a perception that living common-law is less complex. Although living common-law may seem to be a more informal living arrangement, it may have many of the same financial and estate planning implications as marriage. This is particularly important since individuals can unwittingly end up in a common-law partnership merely by living together as partners over a period of time (the length of time varies by province or territory, and may also differ for income tax and other purposes). In addition, having a child together, even without living together, may create legal and financial obligations.

When Canadians get married or start a common-law partnership, many bring with them significant assets and / or debt, with older Canadians more likely to bring more complex assets, such as investments or real estate.

In the CIBC report For richer or poorer: Financial planning tips for newlyweds, 3 methods were suggested for managing joint finances as a couple:

- **Share everything**: All your money is deposited to, and all expenses are paid from, joint accounts. A common savings plan is established for managing accounts that can't be combined (such as RRSPs and TFSAs).
- **Expenses-only**: You both fund a shared "joint account" that is used to pay for common expenses, such as household expenses. Each partner maintains a separate personal account to pay for their own personal expenses.
- **Assign expenses**: You and your partner maintain completely separate accounts. The 2 of you decide which expenses each of you will cover and you each pay for your designated expenses from your own, separate accounts.

When deciding which approach to use, consider how well your goals align, including goals for your family overall. For example, do you both agree on how to fund children's expenses, such as activities and education, while they are minors and adults? Do your plans coincide for leaving inheritances for family members? The more your goals differ, the more advantageous it may be to keep your finances mostly separate.

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1 2016 CIBC Couple Finances Poll (August 2016).

2 35% of poll respondents aged 55 and over said they had already met with a financial advisor, or were planning to sit down with a financial advisor after getting married or living common-law, to help them plan and manage their finances as a couple.

3 64% of poll respondents aged 55 and over were planning to enter common-law partnerships, compared to 56% of all respondents.

In the CIBC poll, those aged 55 and over were the most likely to keep their finances separate (47% vs. 38% of all respondents). This may be because couples are more likely to have blended families or significant financial assets as they get older.

While keeping assets separate may help in managing your finances while you are together as a couple, various laws may dictate how assets are to be allocated between spouses or partners and other family members in the event of relationship breakdown or the death of a spouse or partner.

Relationship breakdown

Generally, if your relationship breaks down, there are rules that dictate how your property must be shared. Family property, which may include real estate, investments and business interests, is subject to division between spouses in most provinces.[4] Note that in some Canadian jurisdictions, common-law partners do not share the same property rights and entitlements as legally married spouses upon the breakdown of the common-law partnership.

A matrimonial home may be considered a family asset from the day of marriage in some Canadian jurisdictions, and the value of the home will need to be shared equally between spouses on separation.

Gifts or inheritances may be excluded from property division, with certain exceptions in some jurisdictions, such as for a matrimonial home. It may be necessary that the individual making the gift expressly sets out that income or appreciation from the gift should not be shared with the recipient's spouse on separation.

Depending on where one lives, in the event of relationship breakdown, a spouse or partner may also be awarded support for a limited or indefinite period of time. Child support may be payable by either spouse or partner, depending on the circumstances.

Also, spouses and partners may, by contract or agreement, be able to deal with a wide variety of issues that may arise in the event that the relationship breaks down. These contracts (marriage contracts/domestic contracts/cohabitation agreements) typically set out how any property accumulated by the couple during the relationship is to be divided, as well as specific arrangements for support. Both spouses or partners should consult with their own qualified legal advisors prior to signing the contract.

Death of a spouse or partner

A will is a document that records your intentions for the management and transfer of your estate. If you don't have a will, you are giving up your right to have a say in the following matters:

- Who will manage your estate;
- Who will inherit your assets; and
- When assets will be distributed.

Depending on the province you live in, marriage may revoke an existing will. That means that you would need to write a new will or on your death, you will be treated as having died without a will ("intestate"). In that case, the laws for intestacy would dictate how your assets must be divided.

You also want to make sure that your will takes into account your new spouse or partner, any existing children and possibly any new stepchildren.

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4 In some provinces, actual property is divided between spouses whereas in other provinces, it is the increase in the fair market value of property held during a marriage that is subject to division.

Depending on the Canadian jurisdiction, a spouse or partner or other dependents who believe they were not adequately provided for in a will may make a claim for support after one's death. Such claims could take priority over bequests under a will.

You may want to consider setting up a spousal or partner trust on your death, to provide support during your spouse's or partner's lifetime, with your children receiving what is remaining in the trust after your spouse or partner passes away.

For instance, say Sam marries Emma, both of whom have been married before. If Sam passes away first, leaving his entire estate to Emma, and Emma then leaves her estate to her daughter from a previous marriage, Sam's son from a previous marriage would not end up with any of Sam's estate. Instead, Sam's will could provide for a spousal trust. When Sam dies, his property would be transferred into the trust from which Emma is to receive the income during her lifetime and perhaps enough capital to support her. After Emma dies, the remaining trust assets would pass to Sam's son from his previous marriage. Emma could leave her own estate (which would not include the property remaining in Sam's spousal trust) to her daughter from her own previous marriage via her own will.

Rather than naming beneficiaries under your will, you may be able to designate beneficiaries in the contract or plan documents for certain assets such as RRSPs, RRIFs, TFSAs, life insurance policies or pension plans. In most provinces, a change in marital status will not affect these beneficiary designations.

You may want to consider whether your new spouse or partner should be designated as the beneficiary under any of these plans. For instance, if your spouse or partner[5] is the beneficiary of your RRSP or RRIF, it can be transferred on a tax rollover basis into the spouse's or partner's own plan, and then the property can remain sheltered from tax within the plan until withdrawn by your spouse or partner.

Maintaining financial and estate documents

At the time Canadians get married or start to live as common-law partners, the vast majority have not turned their minds to critical legal documents. In the CIBC poll of individuals entering a marriage or common-law partnership:

- 72% had no written will;
- 90% had no powers of attorney; and
- 89% had no marriage contract or cohabitation agreement.

Older respondents, who typically have more complex family and financial situations, were somewhat more likely to have legal documents in place.[6] Without these important legal documents, couples risk having their financial plans thrown off track should one partner pass away.

While often the focus is on making sure wills are up to date, don't neglect powers of attorney. These documents allow you to name someone to make decisions to manage your financial affairs, as well as personal and health care, in the event that you are unable to do so yourself, such as if you lose mental capacity.

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[5] For tax purposes, spouse refers to someone to whom you are legally married. Partner refers to a common-law partner under the Income Tax Act, which means someone who cohabits with you in a conjugal relationship, provided the two of you have cohabited for the past 12 months or are jointly parents of a child.

[6] Of poll respondents aged 55 and over, 40% had no written will, 83% had no powers of attorney and 86% had no marriage contract or cohabitation agreement.

Summary

As laws vary as among provinces and territories, you should seek advice from tax, financial and legal professionals in your area, preferably well before getting married or entering into a common-law partnership.

Make sure you have essential legal documents in place, including wills, powers of attorney and potentially marriage contracts, cohabitation agreements and / or trust agreements.

Review and update your legal documents, at least every 5 years, and immediately when there are any changes to your family situation, such as marriage, separation, divorce, births or deaths.

Review any beneficiary designations on your registered plans and insurance policies to ensure they align with your intentions.

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